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MORTON.

SPEECH.

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# SPEECH

OF

*Oliver Perry*

*1823-1877*

SENATOR MORTON, OF INDIANA,

ON RECONSTRUCTION,

IN THE

UNITED STATES SENATE

ON

FRIDAY, JAN. 24th, 1868.

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TO WHICH ARE APPENDED,

RESOLUTIONS ADOPTED BY THE UNION REPUBLICAN STATE CONVENTION  
HELD AT SACRAMENTO, MARCH 31st, 1868.

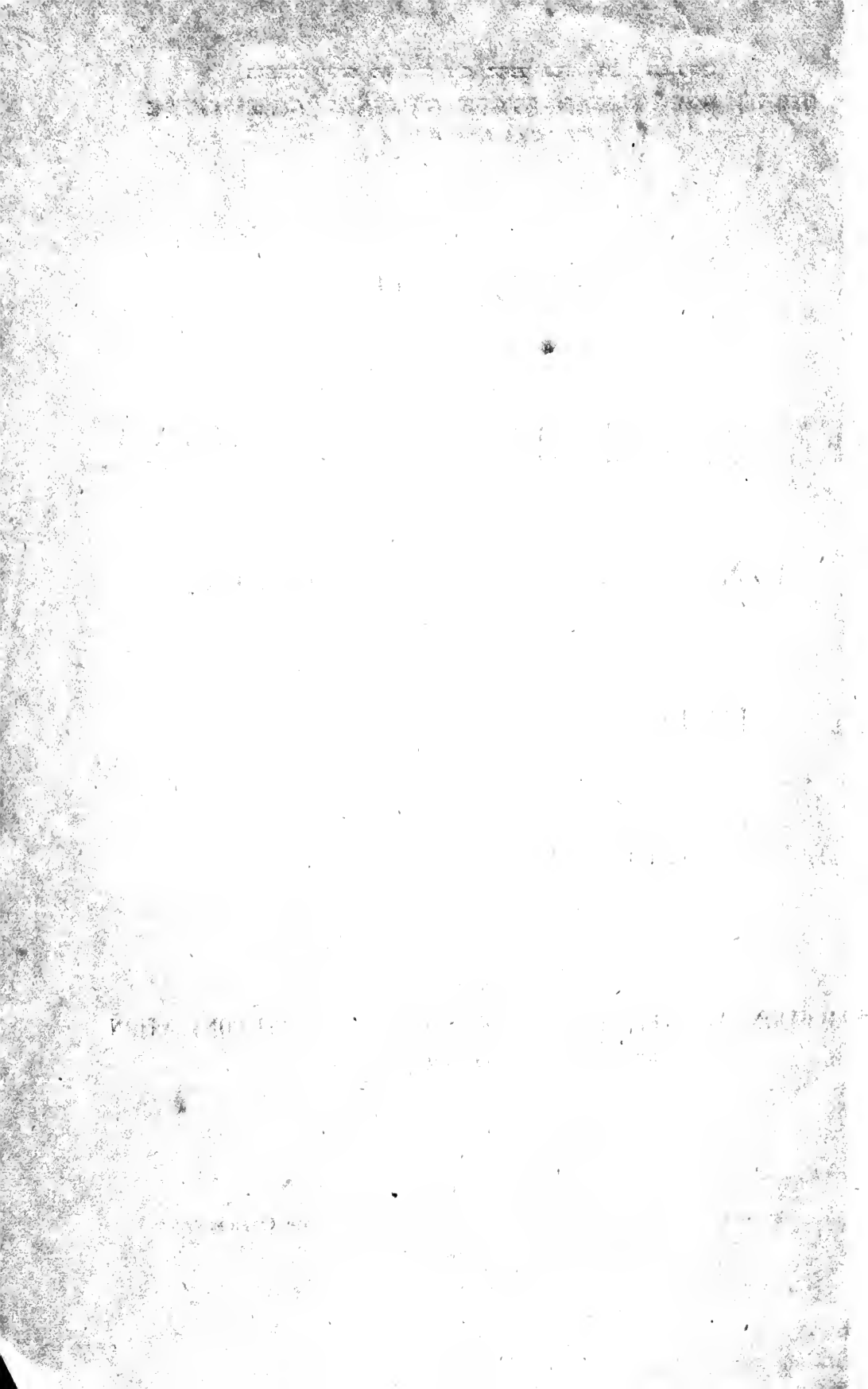
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# RECONSTRUCTION.

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MR. PRESIDENT : If I had not been referred to by my honorable friend from Wisconsin (Mr. Doolittle) in the debate yesterday I should not desire to speak on this question, especially at this time. I fear that I shall not have the strength to say what I wish to. The issue here to-day is the same which prevails throughout the country, which will be the issue of this canvass, and perhaps for years to come. To repeat what I have had occasion to say elsewhere, it is between two paramount ideas, each struggling for the supremacy. One is, that the war to suppress the Rebellion was right and just on our part ; that the Rebels forfeited their civil and political rights, and can only be restored to them upon such conditions as the nation may prescribe for its future safety and prosperity. The other idea is, that the Rebellion was not sinful, but was right ; that those engaged in it forfeited no rights, civil or political, and have a right to take charge of their State Governments, and be restored to their representation in Congress, just as if there had been no Rebellion and nothing had occurred. The immediate issue before the Senate now is between the existing State Governments established under the policy of the President of the United States in the Rebel States ; and the plan of reconstruction presented by Congress. When a surveyor first enters a new territory, he endeavors to ascertain the exact latitude and longitude of a given spot, and from that can safely begin his survey ; and so I will endeavor to ascertain a proposition in this debate upon which both parties are agreed, and start from that proposition. That proposition is, that at the end of the war, in the spring of 1865, the Rebel States were without State governments of any kind. The loyal State governments existing at the beginning of the war had been overturned by the Rebels ; the Rebel State governments erected during the war had been overturned by our armies, and at the end of the war there were no governments of any kind existing in those

States. This fact was recognized distinctly by the President of the United States in his proclamation under which the work of reconstruction was commenced in North Carolina in 1865, to which I beg leave to refer. The others were mere copies of this proclamation. In that proclamation he says :

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress deprived the people of the State of North Carolina of all civil government."

Here the President must be allowed to speak for his party, and I shall accept this as a proposition agreed upon on both sides : that at the end of the war there were no governments of any kind existing in these States. The fourth section of the fourth article of the Constitution declares that "the United States shall guarantee to every State in this Union a republican form of government." This provision contains a vast, undefined power that has never yet been ascertained—a great supervisory power given to the United States to enable them to keep the States in their orbits, to preserve them from anarchy, revolution and rebellion. The measure of power thus conferred upon the Government of the United States can only be determined by that which is requisite to guarantee or maintain in each State a legal and republican form of government. Whatever power, therefore, may be necessary to enable the Government of the United States thus to maintain in each State a republican form of government is conveyed by this provision. Now, Mr. President, when the war ended and these States were found without governments of any kind, the jurisdiction of the United States, under this provision of the Constitution, at once attached ; the power to reorganize State Governments, to use the common word, to reconstruct, to maintain and guarantee republican

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State governments in those States, at once attached under this provision. Upon this proposition there is also a concurrence of the two parties. The President has distinctly recognized the application of this clause of the Constitution. He has recognized the fact that its jurisdiction attached when those States were found without republican State governments, and he himself claimed to act under this clause of the Constitution. I will read the preamble of the President's Proclamation :

"Whereas, The fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and, *whereas*, the President of the United States is by the Constitution made Commander-in-Chief of the Army and Navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and, *whereas*, the Rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and, *whereas*, it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government."

I read this, Mr. President, for the purpose of showing that the President of the United States, in his policy of reconstruction, started out with a distinct recognition of the applicability of this clause of the Constitution, and that he based his system of reconstruction upon it. It is true he recites in this proclamation that he is the Commander-in-Chief of the Army of the United States; but at the same time he puts his plan of reconstruction, not upon the exercise of the military power which is called to its aid, but on the execution of the guarantee provided by the clause of the Constitution to which I have referred. He appoints a Governor for North Carolina and for these other States, the office being civil in its character, but military in its effects. This Governor has all the power of one of the district commanders, and, in fact, far greater power that was conferred upon Gen. Pope or Gen. Sheridan, or any general in command of a district; for it is further provided :

That the Military Commander of the Department, and all officers and persons in the military and naval service, aid and assist the said Provisional Governor in carrying into effect this proclamation.

We are then agreed upon the second proposition,

that the power of the United States to reconstruct and guarantee republican forms of government at once applied when these States were found in the condition in which they were left at the end of the war. Then, Sir, being agreed upon these two propositions, we are brought to the question as to the proper form of exercising this power, and by whom it shall be exercised. The Constitution says that "the United States shall guarantee to every State in this Union a republican form of government." By the phrase "United States" here is meant the Government of the United States. The United States can only act through the Government, and the clause would mean precisely the same thing if it read, "the Government of the United States shall guarantee to every State in this Union a republican form of government." Then, as the Government of the United States is to execute this guaranty, the question arises, what constitutes the Government of the United States? The President does not constitute the Government; the Congress does not constitute the Government; the Judiciary does not constitute the Government; but all three together constitute the Government; and as this guarantee is to be executed by the Government of the United States, it follows necessarily that it must be a legislative act. The President could not assume to execute the guarantee without assuming that he was the United States within the meaning of that provision—without assuming that he was the Government of the United States. Congress could not of itself assume to execute the guarantee without assuming that it was the Government of the United States; nor could the Judiciary without a like assumption. The act must be the act of the Government, and therefore it must be a legislative act, a law passed by Congress, submitted to the President for his approval, and perhaps, in a proper case, subject to be reviewed by the Judiciary. Mr. President, that this is necessarily the case from the simple reading of the Constitution, seems to me cannot be for a moment denied. The President, in assuming to execute this guarantee himself, is assuming to be the Government of the United States, which he clearly is not, but only one of its coördinate branches; and therefore, as this guarantee must be a legislative act, it follows that the attempt on the part of the President to execute the guarantee was without authority, and that the guarantee can only be executed in the form of a law, first to be passed by Congress and then to be submitted to the President for his approval, and if he does not approve it then to be passed over his head by a majority of two-thirds in each House. That law,

then, becomes the execution of the guarantee and is the act of the Government of the United States. Mr. President, this is not an open question. I send to the Secretary and ask him to read a part of the decision of the Supreme Court of the United States in the case of *Luther vs. Borden*, as reported in 7 Howard. The Secretary read as follows :

Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind, and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that Department.

The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State a republican form of government, and shall protect each of them against invasions ; and upon application of the Legislature, or of the Executive, (when the Legislature cannot be convened) against domestic violence.

Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guarantees to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the council of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding upon every other department of the Government, and could not be questioned in judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue ; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the Courts.

Mr. MORTON—In this opinion of the Supreme Court of the United States, delivered many years ago, the right to execute the guarantee provided for in this clause of the Constitution is placed in Congress, and nowhere else ; and therefore the necessary reading of the Constitution is confirmed by the highest judicial authority which we have.

Mr. JOHNSON—Do you read from the opinion delivered by the Chief Justice ?

Mr. MORTON—Yes, sir ; the opinion delivered by Chief Justice Taney. He decides that this power is not judicial ; that it is one of the high powers conferred upon Congress ; that it is not subject to be reviewed by the Supreme Court, because it is political in its nature. It is a distinct enunciation of the doctrine that this guarantee is not to be executed by the President or by the Supreme Court, but by the Congress of the United States, in the

form of a law to be passed by that body, and to be submitted to the President for his approval ; and should he disapprove it, it may become a law by being passed by a two-thirds majority over his head. Now I will call the attention of my friend from Wisconsin to some other authority. As he has been pleased to refer to a former speech of mine to show that I am not quite consistent, I will refer to a vote given by him in 1864 on a very important provision. On the 1st of July, 1864, the Senate having under consideration, as in Committee of the Whole, "a bill to guarantee to certain States whose governments have been usurped or overthrown, a republican form of government," Mr. Brown, of Missouri, offered an amendment to strike out all of the bill after the enacting clause, and to insert a substitute, which I will ask the Secretary to read. The Secretary read as follows :

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President, by force and virtue of the Act entitled 'An Act further to provide for the collection of duties on imports, and for other purposes,' approved July 13th, 1861, they shall be, and are hereby declared to be, incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, and until such return to obedience shall be declared by proclamation of the President, issued by virtue of an Act of Congress hereafter to be passed, authorizing the same."

Mr. MORTON—The honorable Senator from Wisconsin voted for that in Committee of the Whole and on its final passage. I call attention to the conclusion of the amendment, which declares that they shall be—

"Incappable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress, until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, and until such return and obedience shall be declared by proclamation of the President, issued by virtue of an Act of Congress hereafter to be passed, authorizing the same."

Recognizing that a state of war shall be regarded as continuing until it shall be declared no longer to exist by the President, in virtue of an Act of Congress to be hereafter passed. I am glad to find by looking at the vote that the distinguished Senator from Maryland (Mr. Johnson) voted for this proposition, and thus recognized the doctrine for which I am now contending ; that the power to execute the guarantee is vested in Congress alone, and that it is for Congress alone to determine the status and con-

dition of those States, and that the President has no power to proclaim peace or to declare the political condition of those States until he shall first have been thereunto authorized by an Act of Congress. I therefore, Mr. President, take the proposition as conclusively established, both by reason and authority, that this clause of the Constitution can be executed only by Congress; and taking that as established, I now proceed to consider what are the powers of Congress in the execution of the guarantee, how it shall be executed, and what means may be employed for that purpose. The Constitution does not define the means. It does not say how the guarantee shall be executed. All that is left to the determination of Congress. As to the particular character of the means that must be employed, that, I take it, will depend upon the peculiar circumstances of each case; and the extent of the power will depend upon the other question as to what may be required for the purpose of maintaining or guaranteeing a loyal republican form of government in each State. I use the word "loyal," although it is not used in the Constitution, because loyalty is an inhering qualification not only in regard to persons who are to fill public offices, but in regard to State governments, and we have no right to recognize a State government that is not loyal to the Government of the United States. Now, Sir, as to the use of means that are not prescribed in the Constitution, I call the attention of the Senate to the eighteenth clause of section eight of the first article of the Constitution of the United States, which declares that—

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or any department or officer thereof."

Here is a declaration of what would otherwise be a general principle anyhow, that Congress shall have the power to pass all laws necessary to carry into execution all powers that are vested in the Government under the Constitution. As Congress has the power to guarantee or maintain a loyal republican government in each State, it has the right to use whatever means may be necessary for that purpose. As I before remarked, the character of the means will depend upon the character of the case. In one case it may be the use of an army; in another case perhaps it may be simply presenting a question to the courts, and having it tested in that way; in another case it may go to the very foundation of the Government itself. And I now propound this proposition: that if Congress, after

deliberation, after long and bloody experience, shall come to the conclusion that loyal republican State governments cannot be erected and maintained in the Rebel States upon the basis of the white population, it has a right to raise up and make voters of a class of men who had no right to vote under the State laws. This is simply the use of the necessary means in the execution of the guarantee. If we have found after repeated trials that loyal republican State governments, governments that shall answer the purpose that such governments are intended to answer, cannot be successfully founded upon the basis of the white population, because the great majority of that population are disloyal, then Congress has a right to raise up a new loyal voting population for the purpose of establishing those governments in the execution of the guarantee. I think, Sir, this proposition is so clear that it is not necessary to elaborate it. We are not required to find in the Constitution a particular grant of power for this purpose, but we find a general grant of power, and we find also another grant of power authorizing us to use whatever means may be necessary to execute the first; and we find that the Supreme Court of the United States has said that the judgment of Congress upon this question shall be conclusive—that it cannot be reviewed by the Courts—that it is a purely political matter; and therefore the determination of Congress, that raising up colored men to the right of suffrage is a means necessary to the execution of that power, is a determination which cannot be reviewed by the Courts, and is conclusive upon the people of this country. The President of the United States, assuming that he had the power to execute this guarantee, and basing his proclamation upon it, went forward in the work of reconstruction. It was understood at that time—it was so announced, if not by himself, at least formally by the Secretary of State, Mr. Seward—that the governments which he would erect during the vacation of Congress, were to be erected as provisional only; that his plan of reconstruction and the work that was to be done under it, would be submitted to Congress for its approval or disapproval at the next session. If the President had adhered to that determination I believe that all would have been well, and that the present state of things would not exist. But, Sir, the Executive undertook finally to execute the guarantee himself without the coöperation of Congress. He appointed provisional governors, giving to them unlimited power until such time as the new State governments should be erected. He prescribed in his proclamation who should exercise the right of suffrage in the election



of delegates. And allow me for one moment to refer to that. He says in his proclamation :

"No person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's proclamation of May 29th, A.D., 1865."—

which was issued on the same day and was a part of the same transaction—

"And is a voter qualified as prescribed by the Constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A.D. 1861."

The persons having the right to vote must have the right to vote by the laws of the State, and must, in addition to that, have taken the oath of amnesty. The President disfranchised in voting for delegates to the conventions from 250,000 to 300,000 men. His disfranchisement was far greater than that which has been done by Congress. In the proclamation of amnesty he says :

"The following classes of persons are excepted from the benefits of the proclamation"—

He then announces fourteen classes of persons—

"1. All who are or shall have been pretended civil or diplomatic officers, or otherwise domestic or foreign agents of the pretended Confederate Government."

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"13. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over \$20,000."

And twelve other classes, estimated to number at the least 250,000 or 300,000 men, while the disfranchisement that has been created by Congress does not extend perhaps to more than 45,000 or 50,000 persons at the furthest. These provisional governors, under the authority of the President, were to call conventions; they were to hold the elections, and they were to count the votes; they were to exercise all the powers that are being exercised by the military commanders under the Reconstruction Acts of Congress. After those constitutions were formed the President went forward and accepted them as being loyal and republican in their character. He authorized the voters under them to proceed to elect Legislatures, members of Congress, and the Legislatures to elect Senators to take their seats in this body. In other words, the President launched those State governments into full life and activity without consultation with or coöperation on the part of Congress. Now, sir, when it is claimed that these governments are legal, let it be remembered that they took their origin under a proceeding instituted by the President of the United States in the execution of this guarantee, when it now stands confessed that he could not execute the guarantee. But even

if he had the power, let it be further borne in mind that those constitutions were formed by conventions that were elected by less than one-third of the white voters in the States at that time; that the conventions were elected by a small minority even of the white voters, and that those constitutions thus formed by a very small minority have never been submitted to the people of those States for ratification. They are no more the constitutions of those States to-day than the constitutions formed by the conventions now in session would be if we were to proclaim them to be the constitutions of those States without first having submitted them to the people for ratification. How can it be pretended for a moment, even admitting that the President had the power to start forward in the work of reconstruction, that those State Governments are legal, formed by a small minority, never ratified by the people, the people never having had a chance to vote for them? They stand as mere arbitrary constitutions, established not by the people of the several States, but simply by force of executive power. And, sir, if we shall admit those States to representation on this floor and in the other House under those constitutions when the thing shall have got beyond our keeping and they are fully restored to their political rights, they will then rise up and declare that those constitutions, are not binding upon them, that they never made them; and they will throw them off, and with them will go those provisions which were incorporated therein, declaring that Slavery should never be restored and that their war debt was repudiated. Those provisions were put into those constitutions, but they have never been sanctioned by the people of those States, and they will cast them out as not being their act and deed as soon as they shall have been restored to political power in this Government. Therefore I say that even if we concede that the President had the power, which he had not, to start forward in the execution of this guarantee, there can still be no pretense that those governments are legal and authorized, and that we are bound to recognize them. The President of the United States, in his proclamation, declared that those governments were to be formed only by the loyal people of those States; and I beg leave to call the attention of the Senate to that clause in his proclamation of reconstruction. He says :

"And with authority to exercise, within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relation with the Federal Government."

Again, speaking of the army :

## Senator Morton on Reconstruction.

"And they are enjoined to abstain from in any way hindering, impeding, or discouraging the loyal people from the organization of a State government as herein authorized."

Now, Sir, so far from those State governments having been organized by the loyal people, they were organized by the disloyal; every office passed into the hands of a Rebel; the Union men had no part or lot in those governments, and so far from answering the purpose for which governments are intended, they failed to extend protection to the loyal men, either white or black. The loyal men were murdered with impunity, and I will thank any Senator upon this floor to point to a single case in any of the Rebel States where a Rebel has been tried and brought to punishment by the civil authority for the murder of a Union man. Not one case, I am told, can be found. Those governments utterly failed in answering the purpose of civil governments; and not only that, but they returned the colored people to a condition of *quasi* slavery; they made them the slaves of society, instead of being, as they were before, the slaves of individuals. Under various forms of vagrant laws, they deprived them of the rights of freemen, and placed them under the power and control of their Rebel masters, who were filled with hatred and revenge. But, Mr. President, time passed on. Congress assembled in December, 1865. For a time it paused. It did not at once annul those governments. It hesitated. At last, in 1866, the Constitutional Amendment—the 14th Article—was brought forward as a basis of settlement and reconstruction; and there was a tacit understanding, though it was not embraced in any law or resolution, that if the Southern people should ratify and agree to that amendment, then their State governments would be accepted. But that amendment was rejected—contemptuously rejected. The Southern people, counseled and inspired by the Democracy of the North, rejected that amendment. They were told that they were not bound to submit to any conditions whatever; they had forfeited no rights by rebellion. Why, Sir, what did we propose by this amendment? By the first section we declared that all men born upon our soil were citizens of the United States—a thing that had long been recognized by every department of this Government until the Dred Scott decision was made in 1857. The second section provided that where a class or race of men were excluded from the right of suffrage, they should not be counted in the base of representation—an obvious justice that no reasonable man for a moment could deny; that if 4,000,000 people down South were to have no suffrage, the men living

in their midst and surrounding them, and depriving them of all political rights, should not have members of Congress on their account. I say the justice of the second clause has never been successfully impugned by any argument, I care not how ingenious it may be. What was the third clause? It was that the leaders of the South, those men who had once taken an official oath to support the Constitution of the United States, and had afterward committed perjury by going into the rebellion, should be made ineligible to any office under the Government of the United States or of a State. It was a very small disfranchisement. It was intended to withhold power from those leaders by whose instrumentality we had lost nearly half a million lives and untold treasure. The justice of that disfranchisement could not be disproved. And what was the fourth clause of the amendment? That this Government should never assume and pay any part of the Rebel debt; that it should never pay the Rebels for their slaves. This was bitterly opposed in the North as well as in the South. How could any man oppose that amendment unless he was in favor of this Government assuming a portion or all of the Rebel debt, and in favor of paying the Rebels for their slaves? When the Democratic party North and South opposed that most important and perhaps hereafter to be regarded as vital amendment, they were committing themselves in principle, as they had been before by declaration, to the doctrine that this Government was bound to pay for the slaves, and that it was just and right that we should assume and pay the Rebel debt. This amendment, as I have before said, was rejected, and when Congress assembled in December, 1866, they were confronted by the fact that every proposition of compromise had been rejected; every half-way measure had been spurned by the Rebels themselves, and they had nothing left to do but to begin the work of reconstruction themselves; and in February, 1867, Congress for the first time entered upon the execution of the guarantee provided for in the Constitution by the passage of the first reconstruction law. A supplementary bill was found necessary in March, another one in July, and I believe another is found necessary at this time; but the power is with Congress. Whatever it shall deem necessary, whether it be in the way of colored suffrage, whether it be in the way of military power—whatever Congress shall deem necessary in the execution of this guarantee is conclusive upon the courts, upon every State, and upon the people of this nation. Sir, when Congress entered upon this work, it had become apparent to all men that loyal republican State governments

could not be erected and maintained upon the basis of the white population. We had tried them. Congress had attempted the work of reconstruction through the constitutional amendment by leaving the suffrage with the white men, and by leaving with the white people of the South the question as to when the colored people should exercise the right of suffrage, if ever; but when it was found that those white men were as rebellious as ever, that they hated this Government more bitterly than ever; when it was found that they persecuted the loyal men, both white and black, in their midst; when it was found that northern men who had gone down there were driven out by social tyranny, by a thousand annoyances, by the insecurity of life and property, then it became apparent to all men of intelligence that reconstruction could not take place upon the basis of the white population, and something else must be done. Now, Sir, what was there left to do? Either we must hold these people continually by military power, or we must use such machinery upon such a new basis as would enable loyal republican State governments to be raised up; and in the last resort—and I will say Congress waited long, the nation waited long, experience had to come to the rescue of reason before the thing was done—in the last resort, and as the last thing to be done, Congress determined to dig through all the rubbish, dig through the soil and the shifting sands, and go down to the eternal rock, and there, upon the basis of the everlasting principle of equal and exact justice to all men, we have planted the column of reconstruction; and, Sir, it will arise slowly but surely, and “the gates of hell shall not prevail against it.” Whatever dangers we apprehend from the introduction of the right of suffrage of 700,000 men, just emerged from Slavery, were put aside in the presence of a greater danger. Why, Sir, let me say frankly to my friend from Wisconsin, that I approach universal colored suffrage in the South reluctantly. Not because I adhere to the miserable dogma that this was the white man’s Government, but because I entertain fears about at once intrusting a large body of men just from slavery, to whom education had been denied by law, to whom the marriage relation had been denied, who had been made the basest and most abject slaves, with political power. And as the Senator has referred to a speech which I made in Indiana in 1865, allow me to show the principle that then actuated me, for in that speech I said:

“In regard to the question of admitting the freedmen of the Southern States to vote, while I admit the equal rights of all men, and that in time all men will have the right to vote without distinction of color or race, I yet

believe that in the case of 4,000,000 slaves just freed from bondage there should be a period of probation and preparation before they are brought to the exercise of political power.

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Such was my feeling at that time, for it had not then been determined, by the bloody experience of the last two years, that we could not reconstruct upon the basis of the white population, and such was the opinion of the great majority of the people of the North; and it was not until a year and a half after that time that Congress came to the conclusion that there was no way left but to resort to colored suffrage, and suffrage to all men except those who were disqualified by the commission of high crimes and misdemeanors. Mr. President, we hear much said in the course of this debate, and through the press, about the violation of the Constitution. It is said that in the Reconstruction measures of Congress we have gone outside of the Constitution, and the remark of some distinguished statesman of the Republican party is quoted to that effect. Sir, if any leading Republican has ever said so, he spoke only for himself, and not for another. I deny the statement *in toto*. I insist that these Reconstruction measures are as fully within the powers of the Constitution as any legislation that can be had, not only by reason but by authority. And who are the men that are talking so much about the violation of the Constitution, and who pretend to be the especial friends of that instrument? The great mass of them only three years ago were in arms to overturn the Constitution and establish that of Montgomery in its place, or were their Northern friends, who were aiding and sympathizing in that undertaking. I had occasion the other day to speak of what is described as a Constitutional Union man—a man living inside of the Federal lines during the war, sympathizing with the Rebellion, and who endeavored to aid the Rebellion by insisting that every war measure for the purpose of suppressing it was a violation of the Constitution of the United States. Now, these men who claim to be the especial friends of the Constitution, are the men who sought to destroy it by force of arms, and those throughout the country who have given them aid and comfort. Sir, you will remember that once a celebrated French woman was being dragged to the scaffold, and as she passed the statute of Liberty, she exclaimed: “How many crimes have been committed in thy name!” and I can say to the Constitution, “how many crimes against liberty, humanity, and progress, are being committed in thy name by these men who, while they loved not the Constitution and sought its destruction, now, for party purposes, claim to be its espec-

ial friends! My friend from Wisconsin yesterday compared what he called the Radical party of the North to the Radicals of the South, and when he was asked the question by some Senator "who are the Radicals of the South?" he said: "they are the Secessionists." Sir, the Secessionists of the South are Democrats to-day, acting in harmony and concert with the Democratic party. They were Democrats during the war, who prayed for the success of McClellan and Pendleton, and who would have been glad to vote for them. They were Democrats during the war, men who sympathized with the Rebellion, who aided in bringing it on. These are the Radicals of the South, and my friend from Wisconsin, after all, is acting with that Radical party. The burden of his speech yesterday was that the reconstruction measures of Congress are intended to establish negro supremacy. Sir, this proposition is without any foundation whatever. I believe it was stated yesterday by the Senator from Illinois (Mr. Trumbull) that in every State but two, the white voters registered outnumbered the colored voters; and the fact that in two States the colored voters outnumbered the white voters, is owing to the simple accident that there are more colored men in those States than there are white men. Congress has not sought to establish negro supremacy, nor has it sought to establish the supremacy of any class or party of men. If it had sought to establish negro supremacy, it would have been an easy matter by excluding from the right of suffrage all men who had been concerned in the Rebellion, in accordance with the proposition of the distinguished Senator from Massachusetts (Mr. Sumner) in his speech at Worcester, in 1865. He proposed to exclude all men who had been concerned in the Rebellion, and confer suffrage only on those who were left. That would have established negro supremacy by giving the negroes an overwhelming majority in every State; and if that had been the object of Congress it would have been readily done. But, Sir, Congress has only sought to divide the political power between the loyal and the disloyal. It has disfranchised some 50,000 disloyal leaders, leaving all the rest of the people to vote. They have been enfranchised on both sides, and neither should be placed in the power of the other. The Rebels have the right to vote so that they shall not be under the control and power of the Union men only, and the Union men have been allowed to vote so that they shall not be under the control and power of the Rebels. This is the policy, to divide the political power among those men for the protection of each. Sir, the charge that we intend to create a negro supremacy or col-

ored State governments is without the slightest foundation, for it would have been in the power of Congress to have easily conferred such supremacy by simply excluding the disloyal from the right of suffrage—a power which it had the clear right to exercise. Now, Mr. President, allow me to consider for a moment the amendment offered by the Senator from Wisconsin, and upon which his speech was made, and see what is its effect—I will not say its purpose, but its inevitable effect—should it become a law. I will ask the Secretary to read the amendment which the Senator from Wisconsin has proposed to the Senate. [The Secretary read as follows:]

*Provided, nevertheless,* That upon an election for the ratification of any constitution, or of officers under the same, previous to its adoption in any State, no person not having the qualifications of an elector under the constitution and laws of such State previous to the late Rebellion shall be allowed to vote, unless he shall possess one of the following qualifications, namely:

1. He shall have served as a soldier in the Federal Army for one year or more.

2. He shall have sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same; or,

3. He shall be seized in his own right, or in the right of his wife, of a freehold of the value of \$250.

Sir, these qualifications are, by the terms of the amendment, to apply to those who were not authorized to vote by the laws of the State before the Rebellion—in other words, the colored men. He proposes to allow a colored man to vote if he has been in the Federal army one year, and he proposes to allow a Rebel white man to vote, although he has served in the Rebel army four years! He proposes that a colored man shall not vote unless he has sufficient education to read the Constitution of the United States and to subscribe his name to an oath to support the same, whereas he permits a Rebel white man to vote who never heard of A, and does not know how to make his mark even to a note given for whiskey. [Laughter.] Again, Sir, he proposes that the colored man shall not vote unless he shall be seized in his own right, or in the right of his wife, of a freehold of the value of \$250, a provision which, of course, would cut off 999 out of every 1,000 colored men in the South. The colored man cannot vote unless he has a freehold of \$250, but the white Rebel, who was never worth 25 cents, who never paid a poll-tax in his life, never paid an honest debt, is to be allowed to vote. Sir, what would be the inevitable effect of the adoption of this amendment? To cut off such a large part of the colored vote as to leave the Rebel white vote largely in the ascendancy, and to put these new

State governments there to be formed again into the hands of the Rebels. Sir, I will not spend longer time upon that. My friend yesterday alluded to my indorsement of the President's policy in a speech in 1865. I never indorsed what is now called the President's policy. In the Summer of 1865, when I saw a division coming between the President and the Republican party, and when I could not help anticipating the direful consequences that must result from it, I made a speech in which I repelled certain statements that had been made against the President, and denied the charge that by issuing his proclamation of May 29th, 1863, he had thereby left the Republican party. I said that he had not left the Republican party by that act. I did show that the policy of that proclamation was even more radical than that of Mr. Lincoln. I did show that it was more radical even than the Winter-Davis bill of the Summer of 1864. But, Sir, it was all upon the distinct understanding that whatever the President did, his whole policy or action was to be submitted to Congress for its consideration and decision; and, as I before remarked, if that had been done all would have been well. I did not then advocate universal colored suffrage in the South, and I have before given my reasons for it, and in doing that I was acting in harmony with the great body of the Republican party of the North. It was nearly a year after that time when Congress passed the Constitutional Amendment, which still left the question of suffrage with the Southern States—left it with the white people; and it was not until a year and a half after that time that Congress came to the conclusion that we could not execute the guarantee of the Constitution without raising up a new class of loyal voters. And, Sir, nobody concurred in that result more heartily than myself. I confess (and I do it without shame) that I have been educated by the great events of this war. The American people have been educated rapidly; and the man who says he has learned nothing, that he stands now where he did six years ago, is like an ancient mile-post by the side of a deserted highway. We, Mr. President, have advanced step by step. When this War began we did not contemplate the destruction of Slavery. I remember well when the Crittenden resolution was passed, declaring that the war was not prosecuted for conquest or to overturn the institutions of any State. I know that that was intended as an assurance that Slavery should not be destroyed, and it received the vote, I believe, of every Republican member of both Houses of Congress; but in a few months after that time it was

found by the events of the war that we could not preserve Slavery and suppress the Rebellion, and we must destroy Slavery—not prosecute the war to destroy Slavery—but destroy Slavery to prosecute the war. Which was the better? To stand by the resolution and let the Union go, or to stand by the Union and let the resolution go? Congress could not stand by that pledge, and it was “more honored in the breach than in the observance.” Mr. Lincoln issued his proclamation of emancipation, setting free the slaves of Rebels. It was dictated by the stern and bloody experience of the times. Mr. Lincoln had no choice left him. When he began this contest no one thought he would use colored soldiers in the war. The distinguished Senator sitting by me here, (Mr. Cameron) when in the Winter of 1861 he first brought forward the proposition, as Secretary of War, to use colored soldiers, was greatly in advance of public opinion, and was thought to be visionary; but as the war progressed it became manifest to all intelligent men that we must not only destroy Slavery, but we must avail ourselves of every instrumentality in our power for the purpose of putting down the Rebellion, and the whole country accorded in the use of colored soldiers—and gallant and glorious service they rendered.

In 1864 a proposition was brought forward in this body to amend the Constitution of the United States by abolishing Slavery. We do not think that is very radical now, but it was very radical then; it was the great measure of the age, and almost of modern times, and it was finally passed; an amendment setting free every human being within the limits of the United States. But, Sir, we were very far then from where we are now. All will remember the celebrated Winter-Davis bill, passed in June, 1864, which took the power of reconstruction out of the hands of the President, where it did not in fact belong. I refer to Mr. Lincoln; but if that bill had passed it would perhaps have resulted in the destruction of this Government. We can all see it now, although it was then thought to be the most radical measure of the times. What did it propose? It proposed to prescribe a plan, to take effect when the war should end, by which these Rebel States should be restored. I refer to that bill simply to show how we have all traveled. It required but one condition or guarantee on the part of the South, and that was that they should put in their constitutions a provision prohibiting Slavery. It required no other guarantee. It required no equalization of representation; no security against Rebel debts, or against payment for



emancipated slaves; and it confined the right of suffrage to white men. But it was thought to be a great step in advance at the time; and so it was; but events were passing rapidly, and in 1865 the President came forward with his proposition, and I am stating what is true from an examination of the documents when I say that but for the want of power with the President, his scheme in itself considered was far more radical than that of the Winter-Davis bill; but events were rapidly teaching the statesmen of the time that we could not reconstruct upon that basis. Still, Congress was not prepared to take a forward step until the Summer of 1866, in the passage of the Constitutional Amendment, which we now regard as a half-way measure, necessary and vital as far as it went, but not going far enough. That was rejected, and we were then compelled to go further, and we have now fallen upon the plan of reconstruction which I have been considering. It has been dictated by the logic of events. It overrides all arguments, overrides all prejudices, overrides all theory, in the presence of the necessity for preserving the life of this nation; and if future events determine that we must go further, I for one am prepared to say that I will go as far as shall be necessary to the execution of this guarantee, the reconstruction of this Republic upon a right basis, and the successful restoration of every part of this Union. Mr. President, the column of reconstruction, as I before remarked, has risen slowly. It has not been hewn from a single stone. It is composed of many blocks, painfully laid up and put together, and cemented by the tears and blood of the nation. Sir, we have done nothing arbitrarily. We have done nothing for punishment—aye, too little for punishment. Justice has not had her demand. Not a man has yet been executed for this great treason. The arch fiend himself is now at liberty upon bail. No man is to be punished; and now, while punishment has gone by, as

we all know, we are insisting only upon security for the future. We are simply asking that the evil spirits who brought this war upon us shall not again come into power during this generation, again to bring upon us rebellion and calamity. We are simply asking for those securities that we deem necessary for our peace and the peace of our posterity. Sir, there is one great difference between this Union party and the so-called Democratic party. Our principles are those of humanity; they are those of justice; they are those of equal rights; they are principles that appeal to the hearts and the consciences of men; while on the other side we hear appeals to the prejudice of race against race. The white man is overwhelmingly in the majority in this country, and that majority is yearly increased by half a million of white men from abroad, and is gaining in proportion from year to year until the colored men will finally be but a handful in this country; and yet we hear the prejudices of the white race appealed to to crush this other race, and to prevent it from rising to supremacy and power. Sir, there is nothing noble, there is nothing generous, there is nothing lovely in that policy or that appeal. How does that principle compare with ours? We are standing upon the broad platform of the Declaration of Independence, that "all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." We say that these rights are not given by laws; are not given by the Constitution; but they are the gift of God to every man born into the world. Oh, Sir, how glorious is this great principle compared with the inhuman—I might say heathenish—appeal to the prejudice of race against race; the endeavor further to excite the strong against the weak; the endeavor further to deprive the weak of their right of protection against the strong!

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Republican State Central Committee.

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JAMES OTIS .....Chairman.  
ALFRED BARSTOW.....Secretary.  
ALPHEUS BULL.....Treasurer.

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JAMES OTIS,	A. SELIGMAN.
ALFRED BARSTOW,	E. N. TORREY,
ALPHEUS BULL,	JACOB DEETH.

Alameda.

I. A. AMMERMAN.

Sacramento.

J. G. McCALLUM.

Santa Clara.

CHARLES G. THOMAS.

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Alpine .....	Robert Patterson.....	Silver Mountain.
Amador .....	J. R. Hardenbergh.....	Jackson.
Butte.....	W. S. Safford.....	Oroville.
Calaveras .....	T. K. Wilson.....	San Andreas.
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Klamath.....	John F. Martin.....	Martin's Ferry
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Mariposa .....	J. D. Crippen.....	Mariposa.
Mendocino .....	R. McGarvey.....	Ukiah City.
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Monterey.....	B. Flint.....	San Juan, South.
Napa.....	J. M. Coghlan.....	Napa.
Nevada.....	E. W. Roberts.....	Grass Valley.
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Santa Clara.....	F. Sleeper.....	Mountain View.
Stanislaus.....	A. Schell.....	Knight's Ferry.
Sutter .....	J. L. Wilbur.....	Yuba City.
Sierra .....	W. T. Luther.....	Downieville.
Siskiyou .....	C. H. Pyle.....	Yreka.
Solano.....	O. B. Powers.....	Suisun.
Sonoma.....	A. Morse.....	Petaluma.
Tehama.....	N. Merrill.....	Red Bluff.
Trinity.....	D. E. Gordon.....	Weaverville.
Tuolumne .....	D. N. Kenfield.....	Sonora.
Tulare.....	A. O. Thom.....	Visalia.
Yolo.....	J. A. Hutton.....	Cacheville.
Yuba .....	A. S. Smith.....	Marysville.

## RESOLUTIONS

*Adopted by the Union Republican State Convention, held at Sacramento, March 31st, 1868.*

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*Resolved*, That the loyal masses of California are unalterably attached to the imperishable principles of the Union Republican party; that its history is the history of progress, of the advancement of civil, individual and national liberty, of the war against rebellion, of the preservation of the Union, of the delivery of four millions of people from bondage, and that its great mission will never end until the union of all the States shall be established on a foundation of justice and right, never again to be shaken, either by traitors at home or by their allies abroad.

*Resolved*, That the Constitution devolves upon the Executive the duty to see that the laws are faithfully executed, and that when any law is enacted in conformity with the prescribed constitutional forms, the Executive is bound to execute the same.

*Resolved*. That the House of Representatives of the United States is entitled to the gratitude and thanks of the nation for its action in preferring articles of impeachment against Andrew Johnson; that his flagrant disregard of a positive enactment of Congress, in the removal of the Secretary of War in direct violation of an express provision forbidding such an act, was of itself a high crime, and which added to the long series of his gross misdemeanors, would, if suffered to go unrebuked, subordinate all the other powers of Government to the despotic will of the Executive, and would end in the subversion of the Constitution, and the final destruction of representative government.

*Resolved*, That the loyal masses of California, with one voice, approve of and pledge themselves to sustain all the reconstruction measures of Congress; that in carrying out the principles involved in those measures Congress is only executing that provision of the Constitution which devolves upon the United States the obligation to guarantee to every State in the Union a republican form of government.

*Resolved*, That we have the most implicit confi-

dence in the Senate of the United States, before which august tribunal the highest officer known to the Constitution and laws is now arraigned and on his trial; that they will fairly and impartially discharge the solemn duty imposed upon them according to the law and evidence, and they will, by their decision and judgment maintain and vindicate the Constitution and the laws of their country, uninfluenced either by political or personal considerations.

*Resolved*, That we are in favor of the strictest economy in the administration of our National, State and County affairs; of reducing public taxation at once to the lowest limit allowable by the requirements of our public obligations.

*Resolved*, That the payment of the public debt, and in which is involved the national honor, is a cardinal point in our political faith; that repudiation would be an abandonment of the principles upon which the war for the Union was fought; a concession that the Union was not worth defending; a breach of the public faith; a violation of plighted honor, and a crime against the loyal dead, who gave their lives on the battle-field in defense of the great cause for which it was incurred.

*Resolved*, That it is the bounden duty of the National Government, under all circumstances and at all hazards, so to use the national power in its fullest extent, without hesitation and without delay, that the rights of every American citizen, native born and naturalized, shall be fully protected at home and abroad; and especially that no foreign nation should be permitted to arrest and punish any American citizen for any offense committed upon our own soil.

*Resolved*, That in Ulysses S. Grant—the hero, the patriot and the statesman—we recognize the representative man of the times; one in whose keeping the destiny and honor of the nation will ever be safe, and therefore we name him as our unanimous choice for President of the United States.

# PROBABILITIES

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